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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/668,042	09/21/2000	Steven M. Gootter	100281-10200	9076

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EXAMINER

EDELL, JOSEPH F

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 05/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/668,042

Applicant(s)

GOOTTER ET AL.

Examiner

Joseph F Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-8,11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-8,11 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 29 January 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07 March 2003 has been entered.

Claim Objections

2. Claim 7 is objected to because of the following informalities: "interconnect interconnects" (line 3) should read "interconnects". Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "the base" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 6, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,228,796 to Kao in view of U.S. Patent No. 6,213,553 B1 to Fitz.

Kao shows a quick release mounting arrangement that is basically the same as that recited in claims 3, 6, 11, and 12 except that arrangement lacks a resilient biasing member, as recited in the claims. See Figures 1-4 of Kao for the teaching that the quick release mounting arrangement has a seat receiving structure 6, 6' (Fig. 1) having U-shaped forward and rearward latching portions 61, 61' (Fig. 1) with an intermediate region which is adapted to support and receive a pair of elongate members 7, 7' (Fig. 1) that form part of the seat; a lever-operated rotatable locking element 12 (Fig. 1) rotatably supported on the seat receiving structure and selectively rotatable between a first position wherein engagement of between the rotatable locking element and the elongate members is absent and a second position wherein the elongate members are engaged by the rotatable locking element; and a base member 5 (Fig. 1) connected to a chassis 8 (Fig. 1) by a lever operated clamp 9 (Fig. 1) having a cam 91 (Fig. 1) forcing engagement of clamp members on the base member and chassis. Fitz discloses a mounting arrangement similar to that of Kao wherein the arrangement has a resilient

biasing member 18,18',19,19',21,21' (Fig. 3) operatively interconnecting a seat receiving structure 6 (Fig. 3) and a base member 20,20' (Fig. 3) to permit pivotal movement of the seat receiving structure with respect to the base member. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the quick release mounting arrangement of Kao such that a resilient biasing member operatively interconnects the seat receiving structure to the base member, such as the mounting arrangement disclosed by Fitz. One would have been motivated to make such a modification in view of the suggestion in Fitz that the mounting arrangement provides tilting action of the seat with respect to the base member to prevent back pain while riding.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kao in view of Fitz as applied to claims 6, 11, and 12 above, and further in view of U.S. Patent No. 4,772,069 to Szymiski.

Kao, as modified, discloses a quick release mounting arrangement that is basically the same as that recited in claim 5 except that the recesses in the seat receiving structure lack detents to resist movement, as recited in the claim. Szymiski shows a mounting system similar to that of Kao wherein the seat receiving structure 50 (Fig. 2) receives the elongate member 56 (Fig. 2) in a recess 46 (Fig. 2) where a detent 38 (Fig. 2) is provided to resist movement of the elongate members with a predetermined force. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the quick release mounting arrangement of Kao such that detents are provided to resist movement of the

elongate members of the seat frame out of the recesses with a predetermined force, such as the mounting arrangement disclosed by Szymiski. One would have been motivated to make such a modification in view of the suggestion in Szymiski that mounting configuration with the detent resisting movement provides a simple mechanism for easily and rapidly adjusting the longitudinal position of the seat.

8. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kao in view of Fitz as applied to claims 6, 11, and 12 above, and further in view of U.S. Patent No. 5,383,706 to Chen.

Kao, as modified, discloses a quick release mounting arrangement that is basically the same as that recited in claims 7 and 8 except that the arrangement lacks a pair of rods interconnecting the base member and chassis, as recited in the claims. Chen discloses a quick release mounting arrangement similar to that of Chen wherein the arrangement has a pair of rods 23a (Fig. 2) interconnecting the base member 20 (Fig. 2) and the chassis 22,30 (Fig 2). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the quick release mounting arrangement of Kao such that the base member has a pair of rods interconnecting the base member and the clamp on the chassis, such as the quick release mounting arrangement disclosed in Chen. One would have been motivated to make such a modification in view of the suggestion in Chen that the rod interconnection of the base member and chassis allows for easy adjustment of the seat inclination with respect to the chassis.

Response to Arguments

9. Applicant's arguments filed 07 March 2003 have been fully considered but they are not persuasive. Applicant's arguments with respect to the 35 U.S. C. §102 rejections of canceled claim 3 and amended claims 4 and 8-11 as being anticipated by U.S. Patent No. 6,183,043 B1 to Nelson and Kao have been considered but are moot in view of the new grounds of rejection. In response to Applicant's argument that there is no suggestion to combine the references Kao and Fitz, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Fitz suggests to modify a bicycle seat mounting arrangement such that the arrangement has a resilient biasing member interconnecting the seat receiving structure and the base member in order to provide side-to-side swaying of the seat to prevent back pain while riding the bicycle. The teachings of Fitz are applicable to any bicycle seat receiving structure that is connectable to a base member. Next, please see the above 35 U.S.C. 103(a) rejection of Kao in view of Fitz as applied to claims 6, 11, and 12 and further in view of Chen for the teaching that the quick release mounting arrangement has a pair of rods fixed to the base member for interconnecting the base member and the clamp of the chassis. Lastly, the rejection under 35 USC 103(a) drawn toward amended claim 5 was argued solely on the premise that the cited

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art does not teach or suggest the quick release mounting arrangement defined in claim 12, and as a result the above 35 USC 103(a) rejection of claim 5 remains.

Upon consideration of the Applicant's arguments, Examiner rejects claims 1, 3, 5-8, 11, and 12.


Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

JE 

May 8, 2003


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600